IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.MC.No. 3573 of 2007()

SC.210/2005 of ADDL.SESSIONS COURT, (ADHOC), ERNAKULAM
CP.110/2004 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR
CRIME NO.56/01 OF MUNAMBAM POLICE STATION

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PETITIONER: ACCUSED NO.1:

JOHNY, S/O.JOSY, VALIYAVEEDU,
PALLIPURAM KARA, PALLIPURAM VILLAGE.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM REPRESENTED BY SUB INSPECTOR OF POLICE,
MUNAMBAM POLICE STATION IN CRIME NO,56/2001
OF MUNAMBAM POLICE STATION.

BY P.P. SRI. M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3573 of 2007

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Dated this the 29th day of November, 2007

O R D E R

There is no representation for the petitioner. The petitioner is the first accused and he faces indictment in a prosecution under Section 308 r/w. 149 I.P.C. The petitioner was not available before the court and consequently the case against him has been split up and later transferred to the list of long pending cases.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was not wilful, but was due to reasons beyond his control. The petitioner is willing to appear before the court concerned, but he apprehends that his application for bail may not be considered by the court below on merits, in accordance with law and expeditiously. He therefore prays that directions under Section 438 and/or 482 Cr.P.C. may be issued in favour of the petitioner.

3. It is certainly for the petitioner to appear before the court below and explain the circumstances under which he

could not earlier appear before the court. I have no reason to assume that the court below would not consider the application for bail to be filed by the petitioner when he surrenders before the court concerned on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the concerned court and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the court below must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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